

**PETITION FOR A WRIT OF HABEAS CORPUS BY A PERSON IN STATE CUSTODY**Name GROCE, PIERCE, L.  
(Last) (First) (Initial)Prisoner Number P05958Institutional Address C.S.A.T.F. / G2d-29410w  
P.O. Box 5248, CORCORAN CALIFORNIA 93212UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIAPIERCE LANDRUM GROCE  
(Enter the full name of plaintiff in this action.)

CV 08

(PR)  
0966

vs.

Case No. \_\_\_\_\_  
(To be provided by the clerk of court)CALIFORNIA Dept. of CORRECTIONSBOARD OF PRISON TERMS, CALIFORNIA PAROLECOMMISSION, WARDEN KEN CLARK, CORCORAN STATEPRISON, CALIFORNIA ATT. GENERAL EDMUND BROWN JR.  
(Enter the full name of respondent(s) or jailor in this action)**PETITION FOR A WRIT OF HABEAS CORPUS** **SBA**

E-filing

Read Comments Carefully Before Filling InWhen and Where to File

You should file in the Northern District if you were convicted and sentenced in one of these counties: Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin, Mendocino, Monterey, Napa, San Benito, Santa Clara, Santa Cruz, San Francisco, San Mateo and Sonoma. You should also file in this district if you are challenging the manner in which your sentence is being executed, such as loss of good time credits, and you are confined in one of these counties. Habeas L.R. 2254-3(a).

If you are challenging your conviction or sentence and you were not convicted and sentenced in one of the above-named fifteen counties, your petition will likely be transferred to the United States District Court for the district in which the state court that convicted and sentenced you is located. If you are challenging the execution of your sentence and you are not in prison in one of these counties, your petition will likely be transferred to the district court for the district that includes the institution where you are confined. Habeas L.R. 2254-3(b).

C08-Ad-SBA

Who to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

- (a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

ALAMEDA COUNTY SUPERIOR COURT OAKLAND, CALIFORNIA

Court

Location

- (b) Case number, if known 152119 + CASE NO. 132066

- (c) Date and terms of sentence 6-28-08 (4 yrs 8 months) 7-14-1998 (3 yrs)

- (d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) Yes ☒ No ☐

Where? CALIFORNIA STATE PRISON

Name of Institution: CORCORAN STATE PRISON, C.S.A.T.F.

Address: P.O. Box 5248, CORCORAN CALIFORNIA 93212

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

2nd DEGREE BURGLARY 459 PC AND EVADING OFFICER with  
wilful disregard, 2800.2 (A) VC AND Bogus PAROLE  
Violation.

3. Did you have any of the following?

Arraignment:

Yes ☒ No ☐

Preliminary Hearing:

Yes ☒ No ☐

Motion to Suppress:

Yes ☒ No ☐

4. How did you plead?

Guilty ☐ Not Guilty ☒ Nolo Contendere ☐

Any other plea (specify) \_\_\_\_\_

5. If you went to trial, what kind of trial did you have?

Jury ☐ Judge alone ☒ Judge alone on a transcript ☐

6. Did you testify at your trial?

Yes ☐ No ☒

7. Did you have an attorney at the following proceedings:

(a) Arraignment

Yes ☐ No ☒

(b) Preliminary hearing

Yes ☐ No ☒

(c) Time of plea

Yes ☐ No ☒

(d) Trial

Yes ☐ No ☒

(e) Sentencing

Yes ☐ No ☒

(f) Appeal

Yes ☒ No ☐

(g) Other post-conviction proceeding

Yes ☐ No ☒

8. Did you appeal your conviction?

Yes ☒ No ☐

(a) If you did, to what court(s) did you appeal?

Court of Appeal

Yes ☒ No ☐

Year: 2006

Result: Affirmed Conviction

Supreme Court of California

Yes ☐ No ☒

Year: \_\_\_\_\_

Result: \_\_\_\_\_

Any other court

Yes ☐ No ☒

Year: \_\_\_\_\_

Result: \_\_\_\_\_

(b) If you appealed, were the grounds the same as those that you are raising in this

petition? Yes \_\_\_\_\_ No ✓

(c) Was there an opinion? Yes \_\_\_\_\_ No ✓

(d) Did you seek permission to file a late appeal under Rule 31(a)?  
Yes \_\_\_\_\_ No ✓

If you did, give the name of the court and the result:

9. Other than appeals, have you previously filed any petitions, applications or motions with respect to this conviction in any court, state or federal? Yes ✓ No \_\_\_\_\_

[Note: If you previously filed a petition for a writ of habeas corpus in federal court that challenged the same conviction you are challenging now and if that petition was denied or dismissed with prejudice, you must first file a motion in the United States Court of Appeals for the Ninth Circuit for an order authorizing the district court to consider this petition. You may not file a second or subsequent federal habeas petition without first obtaining such an order from the Ninth Circuit. 28 U.S.C. §§ 2244(b).]

(a) If you sought relief in any proceeding other than an appeal, answer the following questions for each proceeding. Attach extra paper if you need more space.

I. Name of Court: Alameda County Superior Court, Oakland, CA.

Type of Proceeding: Writ of Habeas Corpus

Grounds raised (Be brief but specific):

a. FALSE IMPRISONMENT

b. VIOLATION OF DUE PROCESS; (AGREEMENT ON DETAINERS)

c. REFUSED OR FAILURE TO EXTRADITE

d. ILLEGAL EXTENTION OF PAROLE

Result: DENIED Date of Result: 1-5-05

II. Name of Court: FIRST DISTRICT COURT OF APPEAL

Type of Proceeding: Writ of Habeas Corpus

Grounds raised (Be brief but specific):

- a. FALSE IMPRISONMENT  
b. VIOLATION OF DUE PROCESS (AGREEMENT ON DETAINERS)  
c. REFUSED OR FAILURE TO EXTRADITE  
d. ILLEGAL EXTENTION OF PAROLE  
Result: DENIED Date of Result: 10-23-07

III. Name of Court: SUPREME COURT OF CALIFORNIA  
Type of Proceeding: WRIT OF HABEAS CORPUS  
Grounds raised (Be brief but specific):

- a. FALSE IMPRISONMENT  
b. VIOLATION OF DUE PROCESS (AGREEMENT ON DETAINERS)  
c. REFUSED OR FAILURE TO EXTRADITE  
d. ILLEGAL EXTENTION OF PAROLE  
Result: DENIED Date of Result: 1-16-08

IV. Name of Court: UNITED STATES DISTRICT COURT, NORTHERN CALIFORNIA  
Type of Proceeding: WRIT OF HABEAS CORPUS  
Grounds raised (Be brief but specific):

- a. FALSE IMPRISONMENT  
b. VIOLATION OF DUE PROCESS (AGREEMENT ON DETAINERS)  
c. REFUSED OR FAILURE TO EXTRADITE  
d. ILLEGAL EXTENTION OF PAROLE  
Result: DISMISSED WITHOUT PREJUDICE Date of Result: 7-23-2007

(b) Is any petition, appeal or other post-conviction proceeding now pending in any court?

Yes \_\_\_\_\_ No ✓

Name and location of court: \_\_\_\_\_

B. GROUNDS FOR RELIEF

State briefly every reason that you believe you are being confined unlawfully. Give facts to support each claim. For example, what legal right or privilege were you denied? What happened? Who made the error? Avoid legal arguments with numerous case citations. Attach extra paper if you

1 need more space. Answer the same questions for each claim.

2 [Note: You must present ALL your claims in your first federal habeas petition. Subsequent  
3 petitions may be dismissed without review on the merits. 28 U.S.C. §§ 2244(b); McCleskey v. Zant,  
4 499 U.S. 467, 111 S. Ct. 1454, 113 L. Ed. 2d 517 (1991).]

5 Claim One: FALSE IMPRISONMENT; I WAS ARRESTED, DETAINED AND  
6 IMPRISONED ON A Bogus PAROLE VIOLATION, BECAUSE I WAS NO LONGER ON PAROLE

7 Supporting Facts: ON 8-3-1998 I WAS SENTENCED TO 3yrs. this sentence to  
8 EXPIRE 2000. But due to Violations my discharge was extended to 2-28-04  
9 ON 2-15-06, I WAS ARRESTED FOR PAROLE VIOLATION ON this CASE No. 132066 AND ON  
10 4-19-06 I RECIEVED 1yr IN PRISON, to EXPIRE 4-19-07 ON this CASE for Violation

11 Claim Two: VIOLATION of my Federal-Rights, Under the United States Constitution  
12 CONCERNING AGREEMENT ON DETAINERS, due PROCESS rights ON Extradition

13 Supporting Facts: PETITIONER WAS ARRESTED AND DETAINED IN KNOWILLE, TENNESSEE  
14 by fugitive WARRANT, Placed by CALIFORNIA, ON 7-2-2004, I WAS LATER  
15 RELEASED ON 8-12-2004, By TENNESSEE Officials. They stated that I  
16 WAS NO LONGER WANTED by CALIFORNIA Officials. CALIFORNIA Refused to Extradite

17 Claim Three: ILLEGAL EXTENTION OF PAROLE ON CASE NO. 132066  
18 (VIOLATION of PLEA AGREEMENT)

19 Supporting Facts: ON 8-3-1998 PETITIONER WAS SENTENCED TO 3yrs (NO INHANCEMENTS)  
20 I WAS TO SERVE 1yr. ON PAROLE, I WAS PLACED ON PAROLE 10-5-1999 TO END  
21 10-5-2000; but due to A VIOLATION my discharge should HAVE BEEN IN 2001, ON  
22 ABOUT, 1-3-01 CALIFORNIA PAROLE COMMISSIONER, ILLEGALLY EXTENDED my Parole from 3yrs to 4yrs.

23 If any of these grounds was not previously presented to any other court, state briefly which  
24 grounds were not presented and why:

25 IN CASE NO. 152119, MR. FLOYD BENDER, WAS MY EXONERATING WITNESS, HE SWORE  
26 BEFORE THE ALAMEDA SUPERIOR COURT, IN OAKLAND CA. THAT HE WAS THE PERSON IN  
27 QUESTION ON this CASE No. 152119. My Att. ALFON'S WAGNER BAR. No. 63105 ON APPEAL NO.  
28 A114480, REFUSED TO EXPOSE this fact. HE WAS INEFFECTIVE AS COUNSEL

1 List, by name and citation only, any cases that you think are close factually to yours so that they  
2 are an example of the error you believe occurred in your case. Do not discuss the holding or reasoning  
3 of these cases:

4 (PEOPLE VS. ARBUCKLE 22 CAL 3RD 749) PETITIONER WAS DENIED PART OF HIS  
5 PLEA BARGAIN ASPECT. ENTRY OF THE PLEA WAS CONDITIONED UPON IMPOSITION OF  
6 SENTENCE. FAILURE TO MEET CONDITION CONSTITUTE A BREACH OF PLEA BARGIN

7 Do you have an attorney for this petition? Yes \_\_\_\_\_ No ☒

8 If you do, give the name and address of your attorney:

9 I WOULD LIKE A LAWYER APPOINTED TO REPRESENT ME ON THIS CASE

10 WHEREFORE, petitioner prays that the Court grant petitioner relief to which s/he may be entitled in  
11 this proceeding. I verify under penalty of perjury that the foregoing is true and correct.

12  
13 Executed on 2-7-2008

14 Date

Pierce L. Groce

Signature of Petitioner

15  
16  
17  
18  
19  
20 (Rev. 6/02)



Oct 5, 99, I was release from jail. That when my parole started now I was sentenced to 3yr parole. That put me to 2003. Now I only have 2 P.A.L 3.14.00 and that was only for 3 months and 11 days. Then my second P.A.L. was for 10 month and 8 days so my running time comes up to 1 yr 1 month and 19 days. Now if this is the case. My Parole should have been up some time in 2004. Even with me being a Parolee at large this time out. My Parole should have still been over with. why Im I still on Parole.



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**INMATE/PAROLEE  
APPEAL FORM**  
 CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. SBJ

1. \_\_\_\_\_

2. \_\_\_\_\_

2. \_\_\_\_\_

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

| NAME         | NUMBER | ASSIGNMENT | UNIT/ROOM NUMBER |
|--------------|--------|------------|------------------|
| PIERCE GROCE | P05958 | UNASSIGNED | 22 A 21          |

A. Describe Problem: I was put on Parole on Oct 5, 1999 for a period of 3 years I was extend 1 year and I did my Parole Time. My Cont'd Discharge Date is 2-28-04. My Discharge Review Date is 2-28-04. At That Point I was Discharge from Parole. I Have The Paperwork to Prove This To Be True

If you need more space, attach one additional sheet.

B. Action Requested: I would Request my Hold Be lifted, A Discharge Card Presented to me at my Release.

Inmate/Parolee Signature: Pierce GroceDate Submitted: 4-19-06C. INFORMAL LEVEL (Date Received: 5-10-06)

Staff Response: According to the Offender Based Information System (OBIS), Subject has a tentative discharge date of April 7, 2007. This is based on calculations by the Case Record Unit. If you have any paperwork that indicates otherwise, please submit it to our agent.

Staff Signature: Austin Uwakwe, PAIIDate Returned to Inmate: 5-15-06**D. FORMAL LEVEL**

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

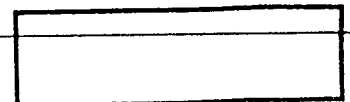
Signature: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed

CDC Appeal Number: \_\_\_\_\_

Board of Control form BC-1E, Inmate Claim



CALIFORNIA  
SHEET/REVOCATION TRACKING/SCHEDULING REQUEST  
(670 (4/91))REPORT TO: ☒ BOARD OF PRISON TERMS☐ NARCOTIC ADDICT EVALUATION AUTHORITY

|  |   |  |  |   |
|--|---|--|--|---|
| CDC NUMBER<br><b>P 05958</b>   | NAME (LAST, FIRST, MI)<br><b>PIERCE, GROCE</b>  | NAME BOOKED AS<br><b>SAME</b>  | REGION/UNIT<br><b>II BERKELEY I</b>  | CSTCU - ST<br><input type="checkbox"/> YES <input type="checkbox"/> N |
| ARREST DATE<br><b>11/11/04</b>   | ARRESTING AGENCY<br><b>ANTIOCH PD</b>   | BPT REFERRALS:<br><input checked="" type="checkbox"/> MANDATORY <input type="checkbox"/> NON-MANDATORY | BOOKING NUMBER AND/OR LOCATION<br><b>2004025457/ MARTINEZ DET PA</b>                   |   |
| ARREST CODE<br><b>D</b>  | * ARREST CODES:<br>A P&CSD STAFF ALONE<br>AB P&CSD ASSISTED BY LAW ENFORCEMENT AGENCY |  | B LAW ENFORCEMENT AGENCY ALONE<br>D LAW ENFORCEMENT AGENCY WITH INFORMATION FROM P&CSD |   |
| HOLD DATE<br><b>11/11/04</b>   | DISCOVERY DATE<br><b>11/12/04</b>   | HOLD REMOVED DATE<br><b>N/A</b>  | AGENT OF RECORD<br><b>E. DOUGLAS</b>   | CONTROLLING DATE<br><b>2/28/04</b>                                    |
| CHARGES AND CODES  |   |  | DISCHARGE REVIEW DATE<br><b>2/28/04</b>  | IMMINENT DISCHARGE<br><input type="checkbox"/>                        |
| 1. COND 2; ABSCONDING PAROLE SUPERVISION 021   |   |  | 4. COND 4: BURGLARY 2ND 515  |   |
| 2. COND 2: TRAVEL MORE THAN 50 MILES W/O P&CSD APPROVAL 028  |   |  | 5. COND 4: FALSE I.D. TO PEACE OFFICER 950   |   |
| 3. COND 2: FAILURE TO REPORT 020   |   |  | 6.   |   |
| REASON FOR RETAINING PAROLE HOLD: PAROLEE DANGER TO:<br><input checked="" type="checkbox"/> ABSCOND <input checked="" type="checkbox"/> SELF <input checked="" type="checkbox"/> PROPERTY-OTHERS <input checked="" type="checkbox"/> SAFETY-OTHERS |   |  | DATE COPY SENT TO PAROLEE<br>DETAILS OF PERSON SENDING                                 |   |

SUPPORTING EVIDENCE:

CHARGES 1-3: AOR ATTEMPTED HOME VISIT AT SUBJECT'S RECORD OF RESIDENCE AND LEFT CARDS TO CONTACT AOR ON 3/4/02 AND 3/19/02. AS SUBJECT FAILED TO REPORT AND A PAL REPORT WAS SUBMITTED. SUBJECT'S PAROLE WAS SUSPENDED BY THE BPT ON 4/15/02, WITH AN EFFECTIVE DATE OF 3/4/02.

SUBJECT'S WHEREABOUTS WERE UNKNOWN UNTIL 7/19/04, WHEN AOR VERIFIED SUBJECT WAS IN CUSTODY IN TENNESSEE, AT THE KNOXVILLE DETENTION CENTER AS OF 7/2/04. AOR REQUESTED AN UPGRADED WARRANT TO CODE 2 AS SUBJECT MAY BE RELEASED FROM CUSTODY ON 7/21/04.

ON 8/12/04, SUBJECT WAS RELEASED FROM KNOXVILLE, TENNESSEE DETENTION CENTER OVER A P&CSD CODE II WARRANT. AOR REQUESTED SUBJECT'S PAROLE BE SUSPENDED AS HE WAS ALSO PREVIOUSLY AT LARGE, AND AGAIN FAILED TO REPORT/CONTACT P&CSD. SUBJECT'S PAROLE WAS SUSPENDED BY THE BPT WITH AN EFFECTIVE DATE OF 10/1/04. SUBJECT'S WHEREABOUTS WERE UNKNOWN UNTIL HIS ARREST ON 11/11/04, BY ANTIOCH PD.

CHARGES ON 11/11/04, [REDACTED]

LEGAL STATUS SUMMARY TY D PVP 03/18/99 18

|                      |                                |               |                         |
|----------------------|--------------------------------|---------------|-------------------------|
| CDC NUMBER<br>P05958 | NAME<br>GROCE, PIERCE, LANDRUM | ETHNIC<br>BLA | BIRTHDATE<br>02/06/1951 |
|----------------------|--------------------------------|---------------|-------------------------|

|                           |                            |                              |                           |
|---------------------------|----------------------------|------------------------------|---------------------------|
| TERM STARTS<br>08/03/1998 | MAX REL DATE<br>10/12/2000 | MAX ADJ REL DT<br>10/12/2000 | CURRENT REL<br>05/10/2000 |
|---------------------------|----------------------------|------------------------------|---------------------------|

|                           |                                |      |                        |
|---------------------------|--------------------------------|------|------------------------|
| BASE TERM 3/00 + ENHCMNTS | NO-ENHCMNTS<br>0/00 = TOT TERM | 3/00 | PAROLE PERIOD<br>3 YRS |
|---------------------------|--------------------------------|------|------------------------|

## PRE-PRISON + POST SENTENCE CREDITS

CASE P2900-5 P1203-3 P2900-1 CRC-CRED MH-CRED P4019 P2931 POST-SENT

|        |     |    |    |
|--------|-----|----|----|
| 132066 | 178 | 89 | 19 |
|--------|-----|----|----|

| REC'D DT/ COUNTY/ | CASE     | SENTENCE DATE | CREDIT | OFFENSE |
|-------------------|----------|---------------|--------|---------|
| CNT               | OFF-CODE | DESCRIPTION   | CODE   | DATE    |

## CONTROLLING PRINCIPAL &amp; CONSECUTIVE (INCLUDES ENHANCEMENTS/OFFENSES):

## --CONTROLLING CASE --

8/03/1998 ALA 132066  
01 P459 2ND BURGLARY 2ND  
PR

7/14/1998

1 01/12/1

| INITIAL WAIVER | BEGINNING | CREDIT  | TOTAL | TOTAL    | ME  |
|----------------|-----------|---------|-------|----------|-----|
| DATE           | BALANCE   | APPLIED | LOST  | RESTORED | TOT |
| 08/03/1998     | 55        | 155     | 0     | 0        | 1   |

CREDITS AUTO RE-VESTED PER PC-2934 : 9

| TRAN | DATE       | END DATE   | LOG NUMBER | RULE   | VIOL | ME   |
|------|------------|------------|------------|--------|------|------|
| TYPE |            |            |            | NUMBER | CAT  | DAYS |
| WCG  | 11/21/1998 | 02/28/1999 |            |        |      | 100  |

| TRAN | DATE | END DATE | LOG NUMBER | RULE   | DAYS                  |
|------|------|----------|------------|--------|-----------------------|
| TYPE |      |          |            | NUMBER | ASSESS LOST REST DEAD |

BEG 08/03/1998

\*\*\*\*\*BEG BAL\*\*\*\*\*

CURRENT PC BALANCE:

0

CURRENT BC BALANCE:

0

ETO BALANCE = 40 AS OF 02/28/1999

EPRD/MEPD IS 10/05/1999 BASED ON CREDIT APPLIED THRU 02/28/1999 AND WORK GROUP

CASE NO. 132066

P.S. A COPY OF MY MOTION  
 IS ATTACHED TO THIS  
 WRIT OF HABEAS CORPUS

12-30-2004  
 ATT: CLERK OF ALAMEDA SUPERIOR COURT

RECEIVED  
 JAN 04 2005  
 ADMIN SVCS  
 This Letter is To INFORM you That I filed  
 A Motion To Discharge And Terminate  
 it was filed ON About August 12, 2004 AND  
 I'VE NEVER got A REPLY. I'd Like for you to  
 Respond AND Let ME KNOW what my RESULTS WAS.

I'VE BEEN informed That ANY Motion Not Ruled upon  
 within the 45 day period is to be GRANTED if That  
 is TRUE PLEASE SEND my RELEASE ORDER To SAN  
 QUENTIN PRISON AND HAVE ME RELEASED. BECAUSE I  
 Certified AND Returned Receipted This Motion when I  
 Mailed it so I KNOW it WAS delivered AND I HAVE  
 COPIES. of Everything. This Motion WAS MAILED  
 FROM KNOXVILLE TENN. ON About Aug. 12, 2004 So  
 Check AND give ME my RESPONSE A.S.A.P., Thankyou  
 Peice Grove POE

**ALFONS G. WAGNER**

Attorney At Law  
California State Bar No. 63105  
1185 Solano Avenue, #131  
Albany, CA 94706-1637  
Telephone: 510.524.5708  
Email: alwagner@pacbell.net

September 1, 2006

Heroe Prince  
P-05958  
Sierra Unit  
P.O. Box 2400  
Susanville, CA 96127-2400

Re: People v. Heroe Prince, First District Court of Appeal, Division Two, No.A114480;  
Alameda County Superior Court No. 152119

Dear Mr. Prince:

Enclosed is a letter and some material that I sent to you at San Quentin but was returned to me because you had been moved to Susanville. San Quentin was the only address I had for you at the time.

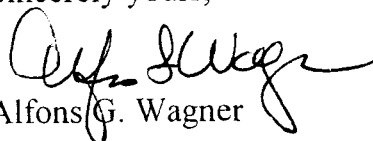
I have not yet received the record on appeal so I am still unable to evaluate your appeal and/or any habeas corpus, much less write a brief or file a petition. I checked the court web site just before writing this letter and there is no indication that the record has been filed. I must tell you the appellate process works at its own speed and unfortunately there is usually very little one can do to speed it up.

All the material I have received shows the courts are calling you Heroe Prince so I am going to stay with that to try to prevent any confusion. Confusion usually means delay.

I received a telephone call from Floyd Bender and we talked for a while. However, without the record on appeal, there wasn't much I could do.

I will keep you advised of developments.

Sincerely yours,

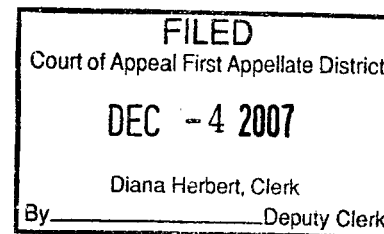
  
Alfons G. Wagner

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO



In re PIERCE GROCE, AKA HEROE  
PRINCE,

on Habeas Corpus.

A119586

(Alameda County  
Super. Ct. No. 132066, 152119)

BY THE COURT:

The petition for writ of habeas corpus is denied.

Dated: DEC - 4 2007

KLINE, P. J. P.J.

**S159413**

**IN THE SUPREME COURT OF CALIFORNIA**

**En Banc**

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In re PIERCE GROCE on Habeas Corpus

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The petition for writ of habeas corpus is denied.

SUPREME COURT  
**FILED**

JAN 16 2008

Frederick K. Ohlrich Clerk

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Deputy

**GEORGE**

---

Chief Justice



Case 4:06-cv-03417-SBA Document 13 Filed 07/23/2007 Page 1 of 4

**E- FILED****JUL 23 2007**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

PIERCE LANDRUM GROCE,

No. C 06-3417 SBA (PR)

Petitioner,

**ORDER GRANTING RESPONDENT'S  
MOTION TO DISMISS**

v.

(Docket nos. 8, 9)

KATHLEEN PROSPER,

# 13

Respondent.

**INTRODUCTION**

Petitioner Pierce Landrum Groce, a state prisoner incarcerated at the California Correctional Center, filed this pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On October 16, 2006, the Court issued an Order to Show Cause directing Respondent to answer the instant petition.

On December 13, 2006, Respondent moved to dismiss the petition for failure to exhaust Petitioner's available state judicial remedies (docket no. 8). Petitioner did not file an opposition.<sup>1</sup>

For the reasons discussed below, the Court hereby GRANTS Respondent's Motion to Dismiss.

**BACKGROUND**

According to the allegations in the petition, Petitioner pled no contest to second degree burglary. On July 14, 1998, the Alameda County Superior Court sentenced him to three years in prison. On October 5, 1999, Groce was released on parole for a period of three years. In January, 2001, the California Department of Corrections extended his parole period from three years to four years.

In 2004, Petitioner filed a petition for a writ of habeas corpus with the Alameda County Superior Court challenging the execution of his sentence. He alleged that he was being kept in

<sup>1</sup> Petitioner's opposition was due on January 30, 2007. (Oct. 16, 2006 Order to Show Cause at 2.) On March 2, 2007, Petitioner filed a document entitled "Motion for Review of Decision and Court-Order Release on March 2, 2007 (docket no. 9). Nowhere in this document does Petitioner address Respondent's Motion to Dismiss. To date, Petitioner has not filed his opposition.

**JUL 23 2007**

Entered on Civil Docket

1 custody unlawfully because he had already completed his sentence and available parole violation  
2 terms. The court denied the petition on January 5, 2005.

3 On May 25, 2006, Petitioner filed the instant petition for a writ of habeas corpus under 28  
4 U.S.C. § 2254. He alleges that he filed petitions for writ of habeas corpus in state courts raising this  
5 issue before filing this action.

6 Respondent argues that Petitioner did not exhaust his federal claim in the California Supreme  
7 Court.

### 8 DISCUSSION

9 Prisoners in state custody who wish to challenge in federal habeas proceedings either the fact  
10 or length of their confinement are first required to exhaust state judicial remedies by presenting the  
11 highest state court available with a fair opportunity to rule on the merits of each and every claim  
12 they seek to raise in federal court. See 28 U.S.C. § 2254(b),(c); Rose v. Lundy, 455 U.S. 509, 515-  
13 16 (1982). If available state remedies have not been exhausted as to all claims, the district court  
14 must dismiss the petition. Id. at 510; Guizar v. Estelle, 843 F.2d 371, 372 (9th Cir. 1988). A  
15 dismissal solely for failure to exhaust is not a bar to returning to federal court after exhausting  
16 available state remedies. See Trimble v. City of Santa Rosa, 49 F.3d 583, 586 (9th Cir. 1995).

17 In support of Respondent's allegations that Petitioner failed to exhaust his state judicial  
18 remedies, Respondent first argues that Petitioner wrote "N/A" in response to the question addressing  
19 the additional relief sought in the state courts. (Mot. to Dismiss at 3 [citing Pet. at 4-5].)  
20 Respondent has also attached an exhibit showing that the California Supreme Court's official  
21 website generated a "printout of California Supreme Court cases filed by a party named 'Groce'  
22 confirm[ing] that Groce did not file a related petition in that court." (Resp't Ex. 3.)

23 The Court finds that the record shows Petitioner failed to exhaust his available state judicial  
24 remedies before seeking federal habeas relief. Petitioner only sought relief from the Alameda  
25 County Superior Court before filing his petition in federal court. Because Petitioner did not present  
26 his claims to the California Court of Appeal and the California Supreme Court for review (either in  
27 direct review or in a state petition for a writ of habeas corpus), the Court finds that his federal  
28 petition is unexhausted.

1 Accordingly, Respondent's motion to dismiss is GRANTED, and the petition is DISMISSED  
2 as unexhausted. This dismissal is without prejudice to Petitioner returning to state court to exhaust  
3 his state judicial remedies and then filing a new federal habeas corpus petition. Should he do so, he  
4 is advised to file his new federal habeas corpus petition as soon as possible after his state court  
5 proceedings have concluded. The Court makes no ruling at this time on the issue of the timeliness of  
6 any future federal petition.


7 CONCLUSION

8 For the foregoing reasons, Respondent's motion to dismiss (docket no. 8) is GRANTED, and  
9 the petition for a writ of habeas corpus is DISMISSED WITHOUT PREJUDICE as unexhausted.  
10 The Clerk of the Court terminate as moot all pending motions, including Petitioner's "Motion for  
11 Review of Decision and Court-Order Release" (docket no. 9). The Clerk shall enter judgment and  
12 close the file.

13 This Order terminates Docket nos. 8 and 9.

14 IT IS SO ORDERED.

15 DATED: 7/23/07

16   
17 SAUNDRA BROWN ARMSTRONG  
18 United States District Judge  
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27  
28

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

PIERCE LANDRUM GROCE,

Plaintiff,

v.

CHARLES C PLUMMER et al,

Defendant.

Case Number: CV06-03417 SBA

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 23, 2007, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

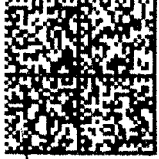
Pierce Landrum Groce P05958  
CA Substance Abuse Treatment Facility  
Corcoran State Prison  
SPG GYM 215M  
Corcoran, CA 93212

Dated: July 23, 2007  
Richard W. Wieking, Clerk  
By: LISA R CLARK, Deputy Clerk

United States District Court  
For the Northern District of California

PIERCE GROCE PD5958  
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CORCORAN, CALIFORNIA  
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